



Dkt. 50995-B/JPW/AJM/AG

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Riccardo Dalla-Favera
Serial No.: 09/585,023 Examiner: S. McGarry
Filed : June 1, 2000 Group Art Unit: 1635
For : MUM-1 PROTEIN EXPRESSED BY MULTIPLE MYELOMA-RELATED GENE

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1185 Avenue of the Americas
New York, New York 10036
October 28, 2003

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

**PETITION UNDER 37 C.F.R. §1.181(a)
TO WITHDRAW HOLDING OF ABANDONMENT**

This is a Petition under 37 C.F.R. §1.181(a) to withdraw the holding of abandonment as set forth in the Notice of Abandonment issued August 29, 2003 in connection with the above-identified application. The Notice indicates that the subject application was abandoned for applicant's alleged failure to timely file a proper reply to the November 19, 2002 Office Action issued by the U.S. Patent Office. A copy of the August 29, 2003 Notice is attached as **Exhibit 1**. 37 C.F.R. §1.181(f) provides a period of two months from the mailing date of the Notice to file a petition. Therefore, a response to the August 29, 2003 Notice is due October 29, 2003. Accordingly, this Petition is being timely filed.

Statement of Facts

On February 19, 2003, applicant timely filed a Communication In Response To November 19, 2002 Final Office Action. A copy

Applicant : Riccardo Dalla Favera
Serial No.: 09/585,023
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Page 2

of the Communication is attached hereto as **Exhibit 2**. The Communication was received on February 24, 2003 in the U.S. Patent and Trademark Office. As evidence of such receipt, applicant submits herewith, as **Exhibit 3**, a copy of the stamped, returned postcard in connection with the February 19, 2003 Communication. An Advisory Action was subsequently issued from the Patent Office on March 13, 2003, a copy of which is attached hereto as **Exhibit 4**. On May 19, 2003, applicant timely filed a Petition For Three-Month Extension of Time accompanied by the proper fee. Copies of the Petition and stamped, returned postcard in connection with the Petition are attached hereto as **Exhibit 5** and **6**, respectively. Applicant concurrently filed a Request For Continued Examination (RCE), including a Preliminary Communication. Copies of the May 19, 2003 RCE Transmittal and Preliminary Communication are attached hereto as **Exhibit 7** and **Exhibit 8**, respectively. The RCE and Preliminary Communication were mailed by Express Mail and a copy of the Express Mail Certificate of Mailing dated May 19, 2003 is attached hereto as **Exhibit 9**. As evidence of receipt in the U.S. Patent and Trademark Office, applicant submits herewith as **Exhibit 10**, a copy of the stamped, returned postcard in connection with the May 19, 2003 RCE and Preliminary Communication.

Action Requested

Applicant hereby petitions for a withdrawal of the holding of abandonment of the above-identified application. Applicant further requests that the May 19, 2003 Request for Continued Examination (RCE) and Preliminary Communication be entered into the file.

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Page 3

According to MPEP §503, "[a] postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all items listed thereon on the date stamped thereon by the USPTO." Applicant maintains that the copy of the February 19, 2003 postcard submitted herewith as **Exhibit 3** is *prima facie* evidence that the Communication was received by the Patent Office. Applicant further maintains that the May 19, 2003 postcard submitted herewith as **Exhibit 10** is *prima facie* evidence that the documents itemize thereon, namely the RCE Transmittal and Preliminary Communication, were also received at the Patent Office.

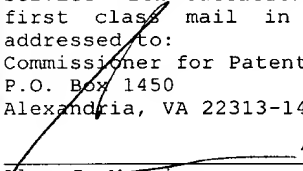
In addition, applicant maintains that the February 19, 2003 Communication was timely filed and constitutes a proper response to the November 19, 2002 Office Action. Applicant further maintains that the May 19, 2003 RCE and Preliminary Communication were timely filed and constitute a proper action taken after the issuance of an Advisory Action.

Accordingly, applicant respectfully maintains that this request for withdrawal of abandonment and consideration of applicant's RCE and Preliminary Communication is proper.

Applicant : Riccardo Dalla Favera
Serial No.: 09/585,023
Filed : June 1, 2000
Page 4

No fee is deemed necessary in connection with the filing of this Petition. However, if any fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,

I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to:
Commissioner for Patents,
P.O. Box 1450
Alexandria, VA 22313-1450.

Alan J. Morrison
Reg. No. 37,399

Date

John P. White
Registration No. 28,678
Alan J. Morrison
Registration No. 37,399
Attorneys for Applicant
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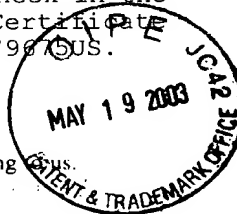
Applicant Riccardo Dalla Favera *Sach*
Client (Columbia)0575 File No. 50995-B JPW/AJM/AG
Date May 19, 2003

Kindly acknowledge receipt of the accompanying

REQUEST FOR CONTINUED EXAMINATION (RCE) in connection with Riccardo Dalla Favera, MUM-1 PROTEIN EXPRESSED BY MULTIPLE MYELOMA-RELATED GENE, Serial No. 09/585,023, filed June 1, 2000, Transmittal letter in triplicate, Preliminary Communication, a check in the amount of \$375.00 and an Express Mail Certificate bearing Express Mailing Label No. ET735979670US.

Date Due: May 19, 2003

by placing your receiving date stamp hereon and returning





Dkt. 0575/50995-B/JPW/AJM/AG

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Riccardo Dalla Favera
Serial No.: 09/585,023 Examiner: S. McGarry
Filed : June 1, 2001 Group Art Unit: 1635
For : MUM-1 PROTEIN EXPRESSED BY MULTIPLE MYELOMA-RELATED GENE

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1185 Avenue of the Americas
New York, NY 10036
May 19, 2003

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Mail Stop: RCE

Sir:

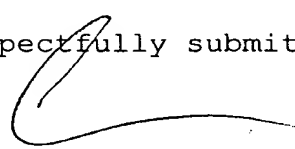
EXPRESS MAIL CERTIFICATE OF MAILING
FOR THE ABOVE-IDENTIFIED APPLICATION

"Express Mail" mailing label number: ET735979675US
Date of Deposit: May 19, 2003

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. \$1.10 on the date indicated above and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 Mail Stop: RCE.

Printed Name: John P. White

Respectfully submitted,



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